

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-097-00205C

Parcel No. 884731127032

Sergeant Square, LLC,

Appellant,

vs.

Woodbury County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 17, 2020. Attorney Jeremy Saint represented Sergeant Square, LLC. Woodbury County Assessor Julie Conolly represented the Board of Review.

Sergeant Square LLC (Sergeant) owns commercial property located at 102 Sergeant Square Drive, Sergeant Bluff, Iowa. The subject property's January 1, 2019, assessment was set at \$9,645,570, allocated as \$340,850 in land value and \$9,304,720 in improvement value. (Ex. B).

Sergeant Square petitioned the Board of Review claiming the subject property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). The Board of Review modified the improvement value to \$4,607,930, resulting in a modified total assessed value of \$4,948,780. (Ex. B).

Sergeant Square appealed to PAAB reasserting its claim.

Findings of Fact

The subject property is a commercial office and call center split between two buildings. The improvements were built in 1987 and include 154,064 square feet of

gross building area, which receive between 25% and 38% physical depreciation, 25% functional obsolescence, and 35% other obsolescence in the assessment. The yard items, including the 342,480-square-foot, concrete parking lot, have between 43% to 65% physical depreciation. The site is 13.558 acres. (Ex. A).

David Schmit, a principal owner of Sergeant Square, testified on its behalf. Schmit purchased the subject property for \$1,102,500 in June 2018; this included a bid price of \$1,050,000 and a transaction fee of \$52,500. (Exs. 2 & 3). He explained he became aware of the listing from real estate broker Chris Bogenrief. (Ex. 1). According to Bogenrief, the subject property had been listed on and off, on a national auction site, since 2015 with no offers. (Ex. 4). Schmit believes he was the only bidder on the property. (Exs. 2 & 3). Schmit also testified that he owns adjoining land to the north of the subject parcel, which was a motivating factor in his decision to purchase the subject property.

The subject property was vacant when Schmit purchased it but half of the building space had a lease in place through January 2019. As of the hearing date, the property is still 100% vacant.

Schmit listed the property for sale almost immediately after the purchase with a list price of \$4,800,000; there is also an option to purchase each building separately for \$2,400,000. The listing excludes an undeveloped portion of the subject site located on the northeast corner, totaling approximately 1.4 acres. (Ex. E). This undeveloped portion of the subject site directly abuts Schmit's other property and he hopes to build apartments on it in the future. Schmit testified there was no specific methodology he relied upon to arrive at the list price and it includes roughly \$10 to \$20-per-square-foot allowances for tenant improvements. He has had no offers for it.

When Schmit purchased the property it was dually zoned. The southwest corner of the site, improved with a portion of the parking lot, was zoned Light Manufacturing; the remaining portion, which includes the rest of the parking lot and the buildings, was zoned General Business District. Schmit explained there has been some interest in

leasing the property, primarily for warehouse use, by a company he described as a wholesale lumberyard. However, when he approached the City to change the zoning there was public opposition and his request was denied. In 2019, on the City's own action, the site was rezoned entirely to General Business District, which would preclude warehouse use.

Sergeant Square submitted two appraisals completed by Christopher Kapler, CBRE Valuation and Advisory Services, West Des Moines, Iowa. (Exs. 5 & 6). Both appraisals valued the subject property based on its net rentable area (NRA) of 148,131 square feet. The first appraisal was completed for financing purposes. (Ex. 5). In that analysis, Kapler valued the "as is" leased-fee interest of the subject property at the time of purchase in June 2018. (Ex. 5, Cover Letter). Kapler completed the second appraisal for ad valorem purposes to determine the fee-simple market value as of January 1, 2019. (Ex. 6, p. 1-2). Because the 2019 appraisal value was done for ad valorem purposes contemporaneous to the assessment date at issue, we find it the most relevant evidence in the record and forgo any analysis of the 2018 appraisal.¹

Christopher Jenkins, a commercial appraiser who oversees CBRE's Des Moines Office, testified for Sergeant Square regarding Kapler's 2019 appraisal.

CBRE noted the property had been listed on a commercial auction website by a "competent local broker" but there "was limited buyers and exposure on the market." (Ex. 6, p. xii). Additionally, CBRE reported "almost all participants indicated the property purchase was under market... ." (Ex. 6, p. xii). (See also Ex. A, p. 13). Jenkins confirmed this was a factual analysis of the 2015-2018 listing and 2018 sales history of the subject property.

Jenkins testified the subject was an older property originally built as a grocery store that has been added on to over the years. It has two buildings connected by a

¹ As previously noted, the 2018 appraisal was completed contemporaneous to the sale of the subject property and values the leased-fee interest. While the appraisal uses some of the same comparables in its analyses, adjustments thereto differ from the 2019 appraisal. Jenkins testified regarding these differences and has convinced PAAB there is generally a reasonable basis for the different adjustments between the two appraisals. The Board of Review made no objection to any of this evidence.

walk-way. Although it has been well maintained, it does have functional issues resulting from the conversion. He described the current improvements as a “fairly large call center...in a relatively smaller market.” He noted call-centers were in demand ten years ago but the market has since moved much of this technology work overseas resulting in a significant vacancy for these types of properties.

Jenkins testified for assessment purposes they looked at the continued use as a call-center. In the previous appraisal, because it was done for financing, they considered alternate uses including warehouse use. At that time they did not anticipate the zoning change would be denied. Moreover, he noted the resulting value from both appraisals was nearly the same.

CBRE relied on the sales comparison and income approaches to value; it did not develop the cost approach. (Ex. 6, p. 4). Jenkins explained because the improvements were built in phases and its use was converted, the resulting functional and external obsolescence, as well as the physical depreciation, limited the reliability of the cost approach and it was not developed.

Jenkins testified CBRE considered regional sales but found adequate data within Iowa and nearby Nebraska and South Dakota. The subject property is a single-tenant property but because it is designed with two-separate buildings, both single-tenant and multi-tenant properties were considered comparable. (Ex. 6, p. 40).

CBRE included seven sales for the sales comparison approach, which are summarized in the following table. (Ex. 6, pp. 39-46).

Comparable	Sale Date	Sale Price	Year Built/Renovation	Net Rental Area(SF)	SP/NRA	Adjusted SP/NRA
Subject			1987/2014-15	148,131		
1 - Discovery Blvd, Sioux City, IA	Nov-18	\$2,885,000	1999	78,123	\$36.93	\$18.47
2 - 86th and Park Dr, Omaha, NE	Mar-18	\$4,468,185	1986/2005	176,200	\$25.36	\$19.40
3 - Gateway Dr, North Sioux City, SD	Jan-18	\$5,750,000	1989/1999	678,713	\$8.47	\$12.96
4 - Brady St, Davenport, IA	Jul-18	\$1,700,000	1996	36,000	\$47.22	\$16.69
5 - 42nd St, West Des Moines, IA	Mar-17	\$2,775,000	1973/2017	61,933	\$44.81	\$16.31
6 - SW 5th & SW 7th St, Des Moines, IA	Jun-15	\$5,100,000	1988	195,728	\$26.06	\$19.52
7 - Zenith Dr, Sioux City, IA	Jan-15	\$1,600,100	1955/2011	62,530	\$25.59	\$17.96

All of the comparable sales were office use like the subject property. Jenkins testified about each of the properties and how they compared to the subject property. CBRE adjusted Comparable 1's sale price to reflect the buyer's renovation cost of \$1,160,000. (Ex. 6, p. 39-40). Adjustments were made for differences in market condition, location, size, age and condition, quality, and other factors such as parking lot area and the anticipated length of lease-up based on existing vacancy or size of the property. (Ex. 6, p. 43-45). The appraisal notes that "some of the sales are of similar offices which do have leases in place. However, the leases have relatively short terms remaining" minimizing their impact on the sale prices. (Ex. 6, p. 40). Comparable 6 was a bank-sale. CBRE did not make any adjustments to reflect its potentially distressed status but it appears to have considered this as it reported multiple "aggressive offers" were made on the property. Because there are ample other sales in the record that support CBRE's final opinion of value, we do not find excluding this sale would affect the conclusions.

The adjusted sale price per net rentable area ranged from \$12.96 to \$19.52 per square foot, with an average of \$17.33 per square foot. The lower end of this range was set by Sale 3. CBRE identified Sale 3 as the most comparable to the subject property because of its similar quality and two-story call center use. Despite these similarities, CBRE recognized its adjusted sale price per net rentable area was an outlier compared to the other sales. CBRE concluded an opinion of value by the sales comparison approach of \$18.00 per net rentable square foot, or \$2,670,000. (Ex. 6, p. 46).

CBRE's income approach analyzed the rents of six Iowa and South Dakota properties. (Ex. 6, pp. 48-51). The rents ranged from \$2.00 to \$12.25 per square foot. (Ex. 6, pp. 50). Jenkins explained the wide range was a result of a mix of single-tenant and multi-tenant leases. After analyzing the data, \$2.75 per rentable square foot was selected as the subject property's market rent. (Ex. 6, p. 51).

CBRE then considered expenses, developed a net operating income (NOI) and estimated a capitalization rate based on published surveys, the band of investment, and

market extraction. (Ex. 6, pp. 59-61). It determined an NOI of \$1.91 per rentable square foot and a capitalization rate, loaded for taxes, of 10.57%.

The indicated value by the income approach was \$2,680,000. (Ex. 6, p. 62).

CBRE gave most consideration to the sales comparison approach and reconciled a final opinion of value, as of January 1, 2019, of \$2,670,000. (Ex. 6, p. 63).

The Board of Review submitted evidence but it had no witnesses and did not participate in the hearing. (Exs. A-F). The Board of Review appears to assert that because the subject property is currently listed for sale at a price near the current assessed value, and does not include the entire site, the assessed value is reasonable. (Exs. E-F). It also notes that the comparable sales appear dated, but it offers no other sales for comparison. (Ex. F).

Analysis & Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). Sergeant Square contends the subject property is over assessed as provided under Iowa Code section 441.37(1)(a)(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in

arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion. *Id.*

Under Iowa law, there is no presumption that the assessed value is correct. § 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted). To shift the burden, the taxpayer must “offer[] competent evidence that the market value of the property is different than the market value determined by the assessor.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer*, 759 N.W.2d at 782.

While the subject property has recently sold, the record indicates it sold below market value. Additionally, it was purchased by an adjoining property owner. For these reasons, we do not find the sale price alone conclusively establishes its market value as of January 1, 2019. Iowa Code 441.21(1)(b)(1); *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). Sergeant Square relies on a 2019 CBRE appraisal in support of its claim that the property is over assessed. The appraisal values the subject property following the statutory scheme and therefore the burden of proof has been shifted to the Board of Review to uphold the assessment.

Though the Board of Review provided some critique of the appraisal, it offered no evidence to support the current assessment. (Ex. F). Moreover, we do not find the critique persuades us that the 2019 appraisal is wholly unreliable.

Viewing the record as a whole, we conclude the Board of Review has not shown the current assessed value should be upheld. The 2019 appraisal is the most persuasive evidence in the record of the subject’s January 1, 2019 actual value.

Order

PAAB HEREBY MODIFIES the Woodbury County Board of Review's action and orders the January 1, 2019 assessment be set at \$2,670,000.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order² and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Karen Oberman, Board Member



Dennis Loll, Board Member



Elizabeth Goodman, Board Member

Copies to:

² Due to the State Public Health Disaster Emergency caused by the coronavirus (COVID-19), the deadline for filing a judicial review action may be tolled pursuant to orders from the Iowa Supreme Court. Please visit the Iowa Judicial Branch website at <https://www.iowacourts.gov/iowa-courts/supreme-court/orders/> for the most recent Iowa Supreme Court orders.

Jeremy Saint for Sergeant Square LLC by eFile

Woodbury County Attorney Darren Driscoll by eFile